

Application No.: 09/337,113
Amendment dated: 12 March 2004
Reply to Office Action mailed: 15 December 2003

Remarks

Prior to this Amendment and Response, claims 1-10 and 14-20 were pending in the Application. Herein, claims 1-4, 6, 8, 10, and 14-20 were amended; claims 23-26 were added; and no claims were cancelled. Therefore, upon entry of the Amendment, claims 1-10, 14-20, and 23-26 will remain pending in the Application. Entry of this Amendment, reconsideration, and allowance of the pending claims is respectfully requested.

Claim Rejections – 35 U.S.C. §103

In the Office Action, the Examiner rejected claims 1-10 and 14-20 under 35 U.S.C. §103 as being unpatentable over *Puhl et al.* (U.S. Patent No. 6,223,291) in view of *Harris et al.* (U.S. Patent No. 6,331,972), and *Davis et al.* (U.S. Patent No. 6,282,522). In response, Applicant has amended the claims to focus more closely on the novel aspects of the invention.

Claim 1 now recites, in this embodiment, an apparatus for a recipient mobile terminal to copy content from a provider mobile terminal in a peer-to-peer downloading operation. The apparatus includes a downloading controller that, *inter alia*, compares cost indicia associated with the content to creditworthiness indicia related to the recipient-terminal user to determine if a selected threshold is met.

This added feature is taken in part from dependent claim 10. Applicant acknowledges that claim 10 was also rejected in the Office Action, but respectfully traverses this rejection. Applicant notes that in the Office Action, paragraphs 7 and 16, the Examiner cites three references in the rejection of claim 10, and indicates that this

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limitation recited there is not found in any of them (but was apparently considered to be an obvious improvement over the three references combined).

Applicant also acknowledges that in paragraph 19 of the Office Action, the Examiner requested that Applicant consider each cited reference in their entirety, rather than simply reviewing the specific sections pointed out in the Office Action. The undersigned has done so, and notes that in all, the three cited references, *Puhl et al.*, *Harris et al.*, and *Davis et al.*, include over 74 columns of Specification (exclusive of claims) and 60 Figures. The teachings of these three references are set forth in some detail. Yet the limitation of claim 10 (now added to claim 1) is not taught in any of them individually or in the three of them put together. Applicant respectfully suggests that the reason for this lack of teaching (explicit or otherwise) is that the invention now recited in claim 1 was not then obvious to a skilled artisan -- at least not without the teaching of the present Application.

Analogous changes have been made with respect to method claims 15 and 16, which are believed to be distinguishable from the prior art for the reasons set forth above. Several limitations of pending claim 15 have been moved to claim 20, which Applicant believes in light of the other amendments to claim 15 do not detract from the reasoning for distinguishability set forth above. The language of the remaining dependent claims has been amended as necessary to conform to the independent-claim changes described above.

New claims 23-26 have been added to recite a method of distributing content using mobile terminals in a mobile communication network. These claims include the

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distinguishing features of amended claims 1 and 15, and are therefore believed to also be distinguishable over the cited references.

In light of the amendments and reasons provided above, Applicant respectfully suggests that this ground for rejection has been overcome.

Conclusion

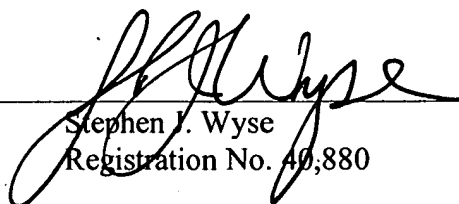
In light of the foregoing, the pending claims are believed to be in condition for allowance. Accordingly, examination and allowance of pending claims 1-10, 14-20, and 23-26 is respectfully requested.

In addition, Applicant notes some confusion over whether the rejection of the claims was made final; the Summary Sheet indicates that the Action is non-final in contradiction to the statement made at the end of the Office Action. In an abundance of caution, Applicant has indicated this is a response pursuant to 37 C.F.R. 1.116 and is mailing the Response to mail stop AF. The Examiner is requested to review and enter the Amendment and communicate to Applicant, in an advisory Action or otherwise, if the claims are now in allowable form or could be made so through an Examiner's Amendment.

Respectfully submitted,

Scheef & Stone, L.L.P.

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Stephen J. Wyse
Registration No. 40,880

5956 Sherry Lane, Suite 1400
Dallas, Texas 75225
Telephone: (214) 706-4200
Facsimile: (214) 706-4242
E-mail: stephen.wyse@solidcounsel.com